

HOUSE BILL No. 2887

By Representative Landwehr

2-13

AN ACT concerning locksmiths; providing for regulation and licensure; prohibiting certain acts and providing penalties for violations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the locksmith licensing act of 2002.

Sec. 2. For the purposes of this act, the following terms shall have the meanings indicated:

(a) "Board" means the board of locksmiths.

(b) "Building permit" means a permit issued by the authority of jurisdiction regarding the regulation of building construction, remodeling and other physical changes to property.

(c) "Certificate" means a document issued by the board as proof that a license has been granted.

(d) "Certification" means the process whereby the board issues a certificate on behalf of this state to a person signifying that such person possesses the character and minimum skills to engage properly in the profession of locksmithing.

(e) "Codebook" means a compilation, in any form, of key codes.

(f) "Emergency" means a life-threatening situation involving a person.

(g) "Inspection" means a method of regulation whereby a state agency periodically examines the activities and premises of practitioners of an occupation or profession to ascertain if the practitioner is carrying out his profession or occupation in a manner consistent with the public health, safety and welfare.

(h) "Key duplication machine" means any device which is capable of copying or reproducing keys.

(i) "Locksmith" means a natural person who performs locksmith and access control services to the public for any type of compensation and has received a license pursuant to this act.

(j) "Locksmithing tool" means any tool that is designed, or intended by the user to be used, to open a mechanical or electrical locking device by a means other than that which is intended by the manufacturer of such device for normal operation.

1 (k) "Locksmith license" means a license granted to a locksmith pur-
2 suant to section 8, and amendments thereto.

3 (l) "Locksmith services" means:

4 (1) Repairing, rebuilding, rekeying, repinning, servicing, adjusting or
5 installing locks, mechanical or electronic security devices, safes, vaults or
6 safe deposit boxes; or

7 (2) operating a mechanical or electrical security device, safe or vault
8 by a means other than those intended by the manufacturer of such locking
9 devices, safes or vaults.

10 (m) "Organization" means any entity other than a natural person,
11 including but not limited to, a corporation, partnership, sole proprietor-
12 ship or association.

13 (n) "Photo identification card" means a document with a photograph
14 of the licensee on its face issued by the board as proof that a license has
15 been granted.

16 (o) "Safe-opening tool" means any tool that is designed, or intended
17 by the use to be used, to open a safe, safe deposit box or similar object
18 by means other than that which is intended by the manufacturer of such
19 safe, vault, safe deposit box or similar object for normal opening.

20 Sec. 3. The board of locksmiths is hereby established to administer
21 a system of certification and licensure. The board shall consist of nine
22 members appointed by the governor as follows: (1) Six members who are
23 locksmiths who have at least five years' experience in the locksmith in-
24 dustry and are currently engaged in that industry; and (2) three members
25 who represent the general public. The members shall all reside in this
26 state and represent the various geographic areas of this state.

27 (b) The terms of the board members shall be four years. Of those
28 members first appointed, three shall be appointed to four-year terms,
29 three for three-year terms and three for two-year terms. Any vacancy
30 occurring other than by expiration of a term shall be filled for the unex-
31 pired term by appointment by the governor. No member shall serve more
32 than two successive full terms.

33 (c) A member of the board representing the general public shall be
34 a person who: (1) Is not by training or experience a locksmith; (2) is not
35 a spouse, parent, child or sibling of a locksmith; and (3) has not direct or
36 indirect financial interest, except as a consumer, in the locksmith
37 profession.

38 (d) The board shall annually elect from its membership a chairperson
39 and vice-chairperson. Five members of the board shall constitute a
40 quorum.

41 (e) Members of the board shall receive compensation, subsistence
42 allowances, mileage and expenses as provided by K.S.A. 75-3223, and
43 amendments thereto.

1 (f) The board shall employ an executive director and such staff as
2 necessary to carry out the duties of the board pursuant to this act.

3 (g) The powers and duties of the board shall be to:

4 (1) Establish the qualification for certification or licensure to ensure
5 competence and integrity to engage in the profession;

6 (2) examine, or cause to be examined, the qualification of each ap-
7 plicant for certification or licensure including, when necessary, the prep-
8 aration, administration and grading of examinations;

9 (3) certify or license qualified applicants regulated by the board;

10 (4) levy and collect fees for certification or licensure and renewal that
11 are sufficient to cover all expenses for the administration and operation
12 of the regulatory board;

13 (5) promulgate rules and regulations necessary to ensure continued
14 competency, to prevent deceptive or misleading practices by practitioners
15 and to effectively administer the regulatory system administered by the
16 board;

17 (6) receive complaints concerning the conduct of any person whose
18 activities are regulated by the board and to take appropriate disciplinary
19 action if warranted;

20 (7) ensure that inspections are conducted relating to the operations
21 in the locksmith trade to ensure competency and lawful compliance;

22 (8) revoke, suspend or deny renewal of a certificate or license for just
23 cause as enumerated in the rules and regulations of the board; and

24 (9) promulgate canons of ethics under which the professional activi-
25 ties of persons regulated by one board shall be conducted.

26 Sec. 4. Any person licensed or certified by the Board who violates
27 any provisions of this or any rule and regulation of the board and who is
28 not criminally prosecuted shall be liable for a monetary penalty for the
29 violation, which shall not exceed \$1,000 for each violation.

30 Sec. 5. After a formal fact-finding, wherein a sanction is imposed to
31 fine, suspend, revoke or deny renewal of a license, certificate or registra-
32 tion, the board may assess the holder thereof the cost of conducting such
33 a fact-finding when the board has final authority to grant a license, cer-
34 tificate or registration, unless the board determines that the offense was
35 inadvertent or done in a good faith belief that the act did not violate this
36 act or a rule and regulation of the board. The cost shall be limited to the
37 reasonable hourly rate for the hearing officer and the actual cost of re-
38 cording the proceedings.

39 Sec. 6. (a) The board shall promulgate rules and regulations estab-
40 lishing standards for the training and licensing of locksmiths. The board
41 shall examine and license locksmiths and may establish classifications of
42 training and licensing.

43 (b) The board or its designee may evaluate the competency of appli-

1 cants for locksmith licenses. The board may either develop and administer
2 an examination to evaluate competency, or rely on an examination de-
3 veloped and administered by a professional locksmith association.

4 (c) The board may waive examination requirements for any person
5 who has been issued a locksmith license within the previous three years
6 from another state which the board has determined requires proof of
7 competency standards equivalent to those established pursuant to section
8 6, and amendments thereto, as a prerequisite for granting a locksmith
9 license if the license is applied for within three months of the effective
10 date of this act.

11 (d) Any person who applies for a license under this act and does not
12 otherwise qualify shall serve an apprenticeship under a licensed locksmith
13 or under the board for a period of two years and shall:

14 (1) Complete 32 hours of continuing education per year of board-
15 approved classes; and

16 (2) use the title of apprentice locksmith in all advertising.

17 Sec. 7. (a) No person shall act as, or offer to act as, a locksmith unless
18 such person has a locksmith license which has not expired or been re-
19 voked or suspended.

20 (b) No organization shall provide or offer the services of a locksmith
21 unless such services are, or can be, provided by an employee of such
22 organization who has a locksmith license which has not expired or been
23 revoked or suspended.

24 (c) It is a class A misdemeanor for any person not licensed under the
25 provisions of this act to advertise that such person is in the locksmith
26 business or to represent to the public that such person is a locksmith.

27 (d) It shall be unlawful for any person to obtain ownership or pos-
28 session of locksmithing tools, safe-opening tools, manuals or codebooks,
29 whether in person, through an intermediary or through mail order or
30 other remote-procurement method, unless such person has a locksmith
31 license which has not expired or been revoked or suspended. It shall be
32 unlawful for any organization to obtain ownership or possession of lock-
33 smithing tools, safe-opening tools, manuals or codebooks by means of an
34 employee, officer or other person who violates this subsection.

35 (e) No apprentice locksmith may have a licensed locksmith working
36 under the apprentice locksmith's supervision.

37 (f) Nothing in this section shall prohibit:

38 (1) The performance of emergency opening services by members of
39 police departments, fire departments or other government agencies in
40 their official line of duty;

41 (2) bona fide sales demonstrations to locksmiths by sales represen-
42 tatives who are not licensed;

43 (3) the acquisition or use of any key duplication machine or key

1 blanks;

2 (4) the performance of servicing, installing, repairing or rebuilding of
3 automotive locks by automotive service dealers, lock manufacturers or
4 manufacturers' agents; or

5 (5) the installation of locks or locking devices by building trades per-
6 sonnel on projects that require a building permit.

7 (g) It is a severity level 9, nonperson felony to possess any locksmi-
8 thing tools, implements or outfit with intent to commit burglary, robbery
9 or larceny. The possession of such locksmithing tools, implements or out-
10 fit by any person other than a bona fide dealer, licensed locksmith, au-
11 tomotive reposessor, locking device manufacturer, or such manufac-
12 turer's agent, who have a reasonable need to possess locksmithing tools
13 for demonstration, testing and research purposes shall be prima facie
14 evidence of an intent to commit burglary, robbery or larceny.

15 (h) It is a class A misdemeanor, except that, upon a third or subse-
16 quent conviction for offenses committed within a 36-month period, it
17 shall be a severity level 9, nonperson felony to engage in any of the fol-
18 lowing acts:

19 (1) Making use of any designation provided by statute or rules and
20 regulations to denote a standard of professional or occupational compe-
21 tence as a locksmith without being duly certified or licensed;

22 (2) making use of any title, words, letters or abbreviations which may
23 reasonably be confused with a designation provided by statute or rules
24 and regulations to denote a standard of professional or occupational com-
25 petence as a locksmith without being duly certified or licensed;

26 (3) providing material misrepresenting facts in an application for li-
27 censure, certification or registration; or

28 (4) willfully refusing to furnish the board information or records re-
29 quired or requested pursuant to statute or rules and regulations.

30 (i) The board may institute proceedings to enjoin any person, part-
31 nership, corporation or any other entity from engaging in any unlawful
32 act enumerated in this section. Such proceedings shall be brought in the
33 district court of the county in which the unlawful act occurred or in which
34 the defendant resides.

35 Sec. 8. (a) The board or the board's designee shall be authorized to
36 issue locksmith licenses to all qualified individuals in accordance with
37 rules and regulations established by the board.

38 (b) Effective July 1, 2003, no locksmith shall do business in this state
39 without having obtained the proper locksmith license from the board.
40 The license shall not be transferred or assigned and is valid only with
41 respect to the person to whom it is issued. No license shall be granted if
42 the applicant has an unpardoned felony in the applicant's criminal record
43 or has had any prior license to do business revoked for fraud, misrepre-

1 sentation or any other act that would constitute a violation of this section.

2 (c) The term of each license shall be no longer than 4 years, with all
3 licenses expiring on their anniversary unless renewed or revoked.

4 (d) Any individual shall have available the photo identification card
5 required by the board at all times when providing locksmithing services.

6 (e) An organization shall display at its normal place of business and
7 in a manner easily readable by the general public a certificate for the
8 licensed locksmith.

9 (f) Any individual licensed or registered under this act must show in
10 all advertising the person's license number.

11 (g) Any applicant for licensure who provides documentation that the
12 applicant has practiced as a locksmith for at least two consecutive years
13 immediately preceding the date of application and is still engaged in the
14 trade shall be exempt from the examination requirements contained in
15 this act and promulgated by the board if the person applies to the board
16 for a license prior to July 1, 2004.

17 (h) A nonresident of this state may be licensed as a locksmith by
18 meeting one of the following requirements: (1) Conform to the provisions
19 of this act and rules and regulations of the board; or (2) hold a valid
20 locksmith license in another state with which reciprocity has been estab-
21 lished by the board.

22 (i) Nonresident applicants shall also file with the board an irrevocable
23 consent that service of process upon the board is as valid and binding as
24 service of process upon the applicant. The board shall notify or cause to
25 be notified by certified mail, the nonresident licensee named in a service,
26 at the licensee's address of record.

27 Sec. 9. (a) An applicant for a locksmith license shall:

28 (1) Be at least 18 years of age;

29 (2) comply with the competency requirements established by the
30 board;

31 (3) pay a license fee as established by rules and regulations of the
32 board;

33 (4) comply with the insurance requirements established by rules and
34 regulations of the board; and

35 (5) complete all application requirements pursuant to rules and reg-
36 ulations of the board.

37 A person shall not be refused a license, certificate or registration to
38 practice, pursue, or engage in an occupation or profession as a locksmith
39 solely because of a prior criminal conviction, unless the criminal convic-
40 tion directly relates to the occupation or profession of a locksmith. How-
41 ever, the board shall have the authority to refuse a license, certificate or
42 registration if, based on all the information available, including the ap-
43 plicant's record of prior convictions, the board finds that the applicant is

1 unfit or unsuited to engage in the occupation or profession of locksmith.

2 (b) The board or its designee shall consult with appropriate state or
3 federal law enforcement authorities to verify whether an applicant has a
4 criminal record prior to granting any license and, as an aid to this duty,
5 each applicant shall be required to provide the applicant's fingerprints
6 and complete an affidavit of the applicant's criminal record, if any, as a
7 part of the application. The board or its designee shall periodically consult
8 with state and federal law enforcement officials to determine whether
9 current licensees have new criminal convictions.

10 (c) The form of application, certificate, photo identification card and
11 method to obtain and renew photographs shall be established by the rules
12 and regulations of the board.

13 Sec. 10. All employees of a locksmith who perform locksmithing
14 services shall be registered with the board. The holder of a locksmith
15 license issued under this act may employ, in the conduct of the organi-
16 zation's business, employees under the following provisions:

17 (a) No person shall be a registered employee of a licensed locksmith
18 if such person:

19 (1) Is not a citizen or legal resident alien;

20 (2) has been determined by the board to be unfit by reason of con-
21 viction of a felony or misdemeanor offense in this or in another state or
22 convicted of any crime related to the practice of locksmithing. The board
23 shall promulgate rules and regulations for procedures by which those
24 circumstances shall be determined and which afford the applicant due
25 process of law; or

26 (3) has had an employee registration refused, denied, suspended or
27 revoked under this act.

28 (b) No person may be employed by a licensed locksmith until such
29 person has executed and furnished to the employer, on forms approved
30 by board, a verified statement to be known as "Employee's Statement"
31 setting forth:

32 (1) The person's full name, date of birth and residence address;

33 (2) the name of the country of which the person is a citizen and, if
34 the person is not a citizen of the United States, proof that the person is
35 a legal resident alien;

36 (3) the business or occupation engaged in for the five years imme-
37 diately before the date of the execution of the statement, the place where
38 the business or occupation was engaged in and the names of employers,
39 if any;

40 (4) that the person has not had a license or employee registration
41 refused, revoked or suspended under this act;

42 (5) any conviction for a felony as it relates to subsection (a) of section
43 9, and amendments thereto; and

1 (6) any other information required by the board to show the good
2 character, competency and integrity of the person executing the
3 statement.

4 (c) Each licensed locksmith shall submit to the board, with the ap-
5 plicable fees, on fingerprint cards furnished by the board, two complete
6 sets of fingerprints that are verified to be those of the applicant. If an
7 applicant's fingerprint cards are returned to the board as unclassified by
8 the screening agency, the agency has 30 days after notification is sent by
9 the board to resubmit such fingerprints taken by a different technician.

10 (d) Upon receipt of the verified fingerprint cards, the board shall
11 cause the fingerprints to be compared with fingerprints of criminals now
12 or hereafter filed with the board. The board may also cause the finger-
13 prints to be checked against the fingerprints of criminals now or hereafter
14 filed in the records of other official fingerprint files within or without this
15 state. The board shall notify the submitting licensed locksmith within 10
16 days upon the invoking of a procedure to deny registration.

17 (e) Within five days of the receipt of the application materials, the
18 board shall institute an investigation for a criminal record by checking the
19 applicant's name with immediately available criminal history information
20 systems.

21 (f) Each licensed locksmith shall maintain a record of each registered
22 employee. The record shall contain the following information:

23 (1) A photograph taken within 10 days of the date that the employee
24 begins employment with the licensed agency, which photograph shall be
25 replaced with a current photograph every three calendar years;

26 (2) the employee's statement specified in this section; and

27 (3) a record of all board-approved classes taken by the employee to-
28 gether with the dates. Each employee must take a minimum of 16 hours
29 of continuing education per year.

30 (g) A duly authorized representative of the board shall be allowed
31 complete access to all records to be kept under this section upon three
32 days advance notice in writing provided to the licensed locksmith.

33 Sec. 11. (a) Any license granted pursuant to this act shall expire at
34 the end of its term unless it is renewed pursuant to regulations established
35 by the board or revoked.

36 (b) All individuals licensed under this act must complete a minimum
37 of 16 hours of continuing education per year of classes approved by the
38 board in order to renew the individual's license and shall provide docu-
39 mentation thereof.

40 (c) An affirmative vote of a majority of those serving on the board
41 who are qualified shall be required before any action to suspend or revoke
42 a license, or to impose a sanction on a licensee. A board member shall
43 disqualify the member's self and withdraw from any case in which the

1 member cannot accord fair and impartial consideration. However, an af-
2 firmative vote of a majority of a quorum of the board shall be sufficient
3 for summary suspension pursuant to specific statutory authority.

4 Sec. 12. (a) No licensed locksmith may employ any person who per-
5 forms locksmithing services under this act unless the locksmith:

6 (1) Submits to the board the name, address, date of birth and such
7 other information sufficient to identify the individual, as the board shall
8 require by rules and regulations, including fingerprint cards and fees;

9 (2) exercised due diligence to ensure that the person is qualified un-
10 der the requirements of the Act to be a registered employee of a licensed
11 locksmith; and

12 (3) maintains a separate roster of the names of all employees hired
13 and whose employment was terminated within the previous month and
14 submits the roster to the board on or before the 10th of the month.
15 Rosters are to be maintained by the locksmith for a period of at least 24
16 months. The locksmith is not required to submit a roster for any month
17 during which no new employees were hired and the employment of no
18 employee was terminated. Failure to maintain and submit the specified
19 rosters is grounds for discipline under this act. The board may by rules
20 and regulations prescribe further record requirements.

21 (b) Failure of a locksmith to notify the board when a new employee
22 is hired and to submit fingerprint cards and fees required before sched-
23 uling the person for work shall result in a fine in an amount up to \$1,000
24 or other disciplinary action being imposed against the locksmith.

25 (c) If information is discovered affecting the registration of a person
26 whose fingerprints were submitted under this section, the board shall so
27 notify the locksmith that submitted the fingerprints on behalf of that
28 person.

29 (d) Every locksmith shall furnish an employee identification card to
30 each of the locksmith's registered employees on an identification card,
31 the form of which shall be designated by the board. The employee iden-
32 tification card shall contain a recent photograph of the employee, the
33 employee's name, the name and license number of the licensed locksmith,
34 the employee's personal description, the signature of the employee, the
35 date of issuance and an employee identification card number which shall
36 be the licensed locksmith's license number followed by a unique suffix
37 for each employee.

38 (e) No employer may issue an employee identification card to any
39 person who is not employed by the employer in accordance with this
40 section or falsely state or represent that a person is or has been in the
41 employer's employ. It is unlawful for an applicant for registered employ-
42 ment to file with the board the fingerprints of a person other than the
43 applicant, or for a licensed locksmith to fail to exercise diligence in re-

1 submitting replacement fingerprints for those employees who have had
2 original fingerprint submissions returned as unclassified.

3 (f) Every employer shall make a reasonable effort to obtain the iden-
4 tification card of every employee who terminates employment with the
5 employer.

6 Sec. 13. The board shall maintain a list of the names and addresses
7 of all locksmiths licensed under this act. Such lists shall also be mailed by
8 the board to any person upon request and payment of the required fee.

9 Sec. 14. A locksmith shall maintain an insurance policy in an amount
10 prescribed by rules and regulations of the board as sufficient for the
11 purpose of paying claims or judgments for damages which may occur as
12 a result of negligence of such locksmith or such locksmith's employees.

13 Sec. 15. (a) Any licensed locksmith who knowingly and willfully
14 opens any residential or commercial establishment of another by any
15 method, whether or not for compensation, shall make a reasonable at-
16 tempt to obtain correct information regarding the street address of the
17 resident or commercial establishment and the signature of the person for
18 whom the residence or commercial establishment was opened on a work
19 order form and the following information regarding the person requesting
20 entry to the resident or commercial property: Name, address, telephone
21 number, date of birth and driver's license or nondriver's identification
22 number. A copy of each work order shall be retained for one year. It shall
23 include the name and license number of the locksmith performing the
24 service and shall be open for inspection by any law enforcement officer
25 or by the board during business hours or submitted to the board upon
26 request.

27 (b) Any licensed locksmith who opens a motor vehicle or personal
28 property registered under the vehicle code for another by any method,
29 whether or not for compensation, shall attempt to obtain information
30 regarding the name, address, telephone number and driver's license num-
31 ber and the identification of the person requesting entrance, and the
32 registration or identification number of the vehicle or personal property,
33 registered under the vehicle code for which entrance is requested. Such
34 information, together with the date the service was performed and the
35 signature of the person requesting entrance, shall be set forth on a work
36 order. A copy of each work order form shall be retained for one year and
37 include the name and license number of the locksmith performing the
38 service and shall be open for inspection by any law enforcement officer
39 or by the board during business hours or submitted to the board upon
40 request.

41 Sec. 16. This act shall take effect and be in force from and after its
42 publication in the statute book.

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